

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.P.JYOTHINDRANATH

WEDNESDAY, THE 2ND DAY OF DECEMBER 2015/11TH AGRAHAYANA, 1937

Bail Appl..No. 4510 of 2015 ()

CRIME NO. 530/2015 OF KASABA POLICE STATION, PALAKKAD DISTRICT

APPLICANT/ACCUSED:

**P.C.AJITH KUMAR, AGED 30 YEARS,
S/O.CHANDRAN, KAZHU KUNNAMKALAM,
THIRUVALATHUR P.O., KODUMBU,
PALAKKAD.**

BY ADV. SRI.V.A.JOHNSON (VARIKKAPPALLIL)

RESPONDENT/COMPLAINANT:

**STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**

BY PUBLIC PROSECUTOR SMT. V.H.JASMINE

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 02-12-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

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K.P. JYOTHINDRANATH, J.

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B.A.No. 4510 of 2015

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Dated this the 2nd day of December, 2015

O R D E R

The petitioner is the accused in Crime No.530 of 2015 of Kasaba Police Station which is registered for an offence under Section 420 of Indian Penal Code . When the application came up for hearing, the counsel for the petitioner submitted before me that petitioner is the telecoms supporter of the Idea Cellular Limited Company and the prosecution case is that he had misappropriated an amount of ₹9,13,000/- by way of swiping out excessive 16,557 liters of diesel using the petrol cards entrusted by the company.

2. It is the submission that no stretch of imagination can say that he had committed an offence under Section 420 of Indian Penal Code. It is also submitted before me that as per the prosecution case, diesel that is to be used for filling cars and other equipments are misappropriated.

It is submitted that the above referred cars of the company are actually in the possession and control of Assistant Manager of the very same company at Palakkad Branch. It is also the submission that when the vehicle for which the diesel has to be used is in the possession of the Manager, it cannot be said that petitioner is the person, who misappropriated the amount or diesel. It is submitted that the petitioner is now made a scape goat in the case.

3. I heard the learned Public Prosecutor.

4. Prosecutor submitted before me that here is a case where company believed the person and entrusted the petrol cards and the said card is used to swipe out diesel. Under such circumstances, an offence under Section 420 will lie.

5. After hearing both counsel, I feel that the following order can be passed.

(i). The petitioner shall appear before the Investigating Officer within 10 days from the

date of this order. On such appearance, the Investigating Officer is at liberty to interrogate the petitioner. After interrogation, if the police officer feels that arrest is necessary, he is at liberty to arrest the petitioner. Thereafter, if any recovery is necessary that also can be made. Thereafter, the petitioner shall be released on bail on executing a bond for ₹25,000/- with two solvent sureties each for the like amount to the satisfaction of the officer concerned.

(ii). After release on bail the petitioner shall appear before the Investigating Officer on all Saturdays in between 10.00a.m. and 12 noon for a period of two months.

(iii). If the petitioner is having a passport, a copy of the same along with the original shall be produced before the Investigating Officer at the time of surrender. After comparison, the original shall be returned to the petitioner. If the petitioner is not having

a passport, he shall swear an affidavit to that effect and produce the same before the Investigating Officer. It shall be kept in the case diary by the Investigating Officer.

(iv). Petitioner shall not commit any offence during bail period.

(v). Petitioner shall not influence or intimidate the witnesses.

(vi). It is made clear that if an application under Section 311A of the Code of Criminal Procedure is filed before the concerned Magistrate, the petitioner shall co-operate with the same.

On the above conditions, this anticipatory bail application is allowed.

Sd/-
K.P.JYOTHINDRANATH
JUDGE

